

MAR 25 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY DWYER, ACTING CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FORTUNADO HERNANDEZ-  
RODRIGUEZ, aka Fortunato Hernandez-  
Rodriguez,

Defendant - Appellant.

No. 06-10022

D.C. No. CR-04-01892-JMR

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Arizona  
John M. Roll, District Judge, Presiding

Submitted March 18, 2008<sup>\*\*</sup>

Before: CANBY, T.G. NELSON, and BEA, Circuit Judges.

Fortunado Hernandez-Rodriguez appeals from his guilty-plea conviction and 57-month sentence imposed for illegal reentry after deportation, in violation of 8 U.S.C. § 1326.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Hernandez-Rodriguez's counsel has filed a brief stating there are no arguable grounds for relief, along with a motion to withdraw as counsel of record. We have provided the appellant the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

We have conducted an independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 83 (1988), and we dismiss in light of the valid appeal waiver. *See United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000) (appeal waiver valid when entered into knowingly and voluntarily).

Counsel's motion to withdraw is **GRANTED**.

**DISMISSED.**